

BEFORE THE BOARD OF OPTOMETRY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.168.401,) ON PROPOSED AMENDMENT
pertaining to fees)

TO: All Concerned Persons

1. On March 4, 2005, at 10:00 a.m., a public hearing will be held in room 471, Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Optometry no later than 5:00 p.m., February 25, 2005, to advise us of the nature of the accommodation that you need. Please contact Sharon McCullough, Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdopt@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.168.401 FEE SCHEDULE

(1) Original certificate of registration <u>Application by examination</u>	\$175
(2) Annual renewal	125 <u>250</u>
(3) Penalty for late renewal	150
(4) Out-of-state license application	300
(5) Copies per page	.25
(6) TPA certificate application fee	50 <u>75</u>
(7) List of licensees	20

AUTH: 37-1-131, 37-10-202, MCA

IMP: 37-1-134, 37-1-304, 37-10-302, 37-10-307, MCA

REASON: The Board of Optometry (Board) has determined that there is reasonable necessity to make the proposed fee changes in order to comply with the provisions of 37-1-134, MCA, and to keep the Board's fees commensurate with program costs. The Department of Labor and Industry (Department), in providing administrative services to the Board, has determined that unless the licensure fees are increased as proposed, the Board will have a shortage of operating funds by the 2006 licensure renewal period. The Board estimates that approximately 285 persons (275 active licensees and 10 new applicants) will be affected by the proposed fee changes. The Board last raised its fees in fiscal

year 2003.

The estimated annual increase in revenue is approximately \$35,625. Under the proposed fee schedule, the Board's projected annual revenue is \$74,080. The Board's appropriation for fiscal year 2005 is \$53,036. The Department has reevaluated the current budget allocations for all professional and occupational licensing boards, including the Board of Optometry. This reevaluation was done as part of an internal reorganization of the Department's Healthcare Licensing Bureau (Bureau) and resulted in an increase in expenditures for the Board to be implemented beginning fiscal year 2005. The Board's cash projections for 2005 are approximately \$37,000. After considering the current income base and deducting Board expenses of \$53,036, it was concluded that the Board would not have adequate cash available to meet the next several fiscal years' projected expenditures. The percentage of the total board-allocated charges is based upon the daily time distribution sheet, personnel services charges for the Bureau, personnel allocation without investigator (4 FTE), Bureau budget, Business Standards Division (Division) recharge and Bureau legal allocation. The Board has determined it is both reasonable and necessary to increase the fees as proposed to establish a fiscally sound budget and to meet the Board's obligation for fiscal responsibility.

There is reasonable necessity to add 37-1-131, MCA, as an AUTH cite while the rule is otherwise being amended, to reflect the additional authority of the Board.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdopt@mt.gov and must be received no later than 5:00 p.m., March 10, 2005.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/opt>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Optometry maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Optometry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdopt@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OPTOMETRY
LARRY OBIE, CHAIRMAN

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State January 31, 2005.